

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**FILED - GR**September 15, 2022 11:40 AM
CLERK OF COURT
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY: KB SCANNED BY: KB / 9-15Anthony Terrell McGowan # 50318718

(Enter above the full name of the plaintiff(s), including prisoner number, in this action. If you cannot list all plaintiffs in the space provided, please write "see attached" and list all names on an additional page.)

v.

Lieutenant Herbert, Celeng
Sheriff Bailey, Paul**1:22-cv-852****Phillip J. Green****U.S. Magistrate Judge**

(Enter above the full name of the defendant(s) in this action. If you cannot list all defendants in the space provided, please write "see attached" and list all names on an additional page.)

COMPLAINT
(Print Clearly)**I. Previous Lawsuits****CAUTION:** The Prison Litigation Reform Act has resulted in substantial changes in the ability of incarcerated individuals to initiate lawsuits in federal courts without prepayment of the civil action filing fee. Accurate and complete responses are required concerning your litigation history. Generally, a plaintiff's failure to accurately and completely answer the questions set forth below will result in denial of the privilege of proceeding *in forma pauperis* and require you to pay the entire \$402.00 filing fee regardless of whether your complaint is dismissed.A. Have you ever filed a lawsuit while incarcerated or detained in any prison or jail facility? Yes ☒ No ☐

B. If your answer to question A was yes, for each lawsuit you have filed you must answer questions 1 through 5 below. Attach additional sheets as necessary to answer questions 1 through 5 below with regard to each lawsuit.

1. Identify the court in which the lawsuit was filed. If it was a state court, identify the county in which the suit was filed. If the lawsuit was filed in federal court, identify the district within which the lawsuit was filed.

Eastern/Western Dist.(Mich.) - North East Dist.(PAK)2. Is the action still pending? Yes ☐ No ☒a. If your answer was no, state precisely how the action was resolved: Dismissed
Not processed without Action,3. Did you appeal the decision? Yes ☒ No ☐4. Is the appeal still pending? Yes ☐ No ☒a. If not pending, what was the decision on appeal? Dismissed5. Was the previous lawsuit based upon the same or similar facts asserted in this lawsuit? Yes ☐ No ☒

a. If so, explain: _____

II. Parties

A. Plaintiff(s)

Enter your name, place of confinement, address, and place of confinement during the events described in the complaint in the blanks below. Provide the same information for any additional plaintiffs. Attach extra sheets as necessary.

Name of Plaintiff Anthony Terrell McGowan #56318718

Place of Present Confinement Berrien County Jail (BCJ)

Address 919 Port Street, St. Joseph MI. 49085

Place of Confinement During Events Described in Complaint Berrien County Jail (BCJ)

B. Defendant(s)

Complete the information requested below for each defendant in this action, including whether you are suing each defendant in an official and/or personal capacity. Provide the same information for each additional defendant. If there are more than six defendants attach extra sheets as necessary.

Name of Defendant #1 Bailey, Paul

Position or Title Sheriff

Place of Employment Berrien County Sheriff Dept.

Address 919 Port Street, St. Joseph MI. 49085

Official and/or personal capacity? Official

Name of Defendant #2 Herbert, Selena

Position or Title Lieutenant

Place of Employment Berrien County Sheriff Dept.

Address 919 Port Street, St. Joseph MI. 49085

Official and/or personal capacity? Official and Personal

Name of Defendant #3 _____

Position or Title _____

Place of Employment _____

Address _____

Official and/or personal capacity? _____

Name of Defendant #4 _____

Position or Title _____

Place of Employment _____

Address _____

Official and/or personal capacity? _____

Name of Defendant #5 _____

Position or Title _____

Place of Employment _____

Address _____

Official and/or personal capacity? _____

III. Statement of Claim

State here the **facts** of your case. Describe how each defendant is personally involved. Include also the names of other persons involved, dates and places. **Do not give any legal arguments or cite any cases or statutes.** If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. **Do not include unrelated claims.** Use as much space as you need. Attach extra sheets if necessary.

1. Lieutenant Herbert and Sheriff Bailey committed intentional Acts of Deliberate Indifference to Plaintiff Physical and Mental Health and in doing so Also violated ~~Plaintiff~~ U.S. Constitution Amendments 1st Amendment (Retaliation), 5th Amendment (Due Process) 8th Amendment (cruel and unusual punishment) and 14th Amendment (equal Protection)

2). On or About 4/22/22 while being housed in the Berrien County Jail (BCJ) Dorm 2-E. Plaintiff informed Deputy Zabel, He Had to be Moved because inmates were calling him a snitch. (See Exhibit #2). Deputy Rekin interviewed plaintiff About This and Plaintiff informed Her that I was a victim of an Assault by other inmates in Dorm 2-E, for providing information to Berrien County Prosecuting Attorney's office in People v. Carter Case #2021004166-FC. I was then placed into Administrative Housing/Protection.

3). on or About 5/22/22 while being housed in Administrative Housing/Protection. Plaintiff sent an Affidavit in support of facts Continued Protection to then Sgt. Herbert ("now Lt. Herbert") Classification officer who is in charge of all inmate housing and placement. (See Exhibit #2-2pg.) In This Affidavit Plaintiff Begged and Pleaded with Herbert not to remove him from Protection of Administrative Housing, Due to inmates wanting to Harm or Kill Him (copies of this request for Continue Protection was sent to Sheriff Bailey and other Ranking BCI Employees) Sheriff over sees the Berrien County Sheriff Dept. and Jail. Therefore making Him responsible for

STATEMENT of CLAIM - Continue 4-A

Lt. Herbert's Actions.

On or About 6/13/22 Plaintiff was forced to move out of Protection, by Lt. Herbert. Plaintiff was placed back into the very Dorm 2-E, that He was forced to leave on 4/22/22 for being a Snitch. And being Assaulted and Harassed Daily.

Lt. Herbert Had Knowledge, As well as Sheriff Bailey, That I would be Assaulted, if moved out of Protection, or Moved back into A-E (See Exhibit #1 and #2).

Plaintiff never requested to move from Protection, never sign a waiver to be moved into 2-E.

4) On or About 7/5/22 while being housed in Dorm 2-E Lt. Herbert Moved Richard Hill into Dorm 2-E. Richard Hill Asked BCD Inmate worker/Trustee Dean Bell to go down stairs and Bring back Paper work (Prelim Transcripts of Carter's Exam. Deputies Allowed Bell to Travel from The 2nd floor to The 1st floor and back up Again (Inmate workers can only move between floors with a Deputies Permission.) with Proof I testified at Carter's Exam. After Richard Hill read these Documents He ran into my sleeping area/Room and Assaulted Me, Causing injury to my left eye and my neck. Plaintiff Suffered from Blows to the Head, and was Choked by Hill. Plaintiff had to Bite Hill in order to Get Him off. (See Exhibit #3).

Inmate worker Dean Bell was fired from His worker status with in BCD. Richard Hill was charged with Assault and Battery (See Exhibit #4).

Richard Hill has Pleaded Guilty and Admitted why he Assaulted Me. Hill received time served for my Assault (See case #2022002147 Berrien County)

Statement of Claim - Continue 4-B

- 5) Lt. Herbert is responsible for moving Richard Hill in A-E, Hiring Deon Bell as an inmate worker, and for removing Plaintiff from Protection.
- 6) Due to this Assault Plaintiff suffer from Mental Issues Plaintiff has been placed on Psych. Medication (1) Buspirone to Deal with the Anxiety, Prazosin to Deal with the Nightmares, of being Assaulted Again and Again, And Sertraline to deal with added Depression. Plaintiff was Also placed on Cyclobenzaprine, to Deal with the Beating to his Head and Body, the Choking and w/Plash. Plaintiff still suffer from Daily Pain from this Assault. (See Medication in Exhibit #5) And lost of vision in his left eye.
- 7). Had Lt. Herbert not taken me out of Protection Plaintiff would not have been Assaulted, and Developed mental Anguish, Pain and Suffering, lost of sight in his left eye (Clear Sight)
- 8) Lt. Herbert Moved Plaintiff back into Dorm A-E out of Retaliation. Because Plaintiff has written Grievances About BCD Jail Conditions (See Exhibits 6, 7, 8, 9, 10) and for switching on Carter.
- 8) Plaintiff wrote a Grievance on this matter (See Exhibit #11 - 5 Pgs.) It should be noted There's no Special forms to write Grievances in BCD, And the Attached Grievance(s) Has not been responded to.

IV. Relief

State briefly and precisely what you want the court to do for you.

Six Million Dollars, for Pain and Suffering - Mental Anguish.
Six Million Dollars, for loss of sight in left eye, whiplash
to the neck and Assault by Strangulation.
Six Million Dollars, for Failure to Protect me, And
Intentional Actions (by Knowing I'll be Assaulted if released
from Protection.
~~18~~ Six Million Dollars, for Punitive Damages

V. Notice to Plaintiff Regarding Consent

In accordance with the provisions of 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73, you are hereby notified that the United States magistrate judges of this district court may, upon your consent, conduct any or all proceedings in this case, including a jury trial and entry of a final judgment. If you consent, any appeal from a judgment entered by a magistrate judge shall be taken directly to the United States Court of Appeals for this judicial circuit in the same manner as an appeal from any other judgment of a district court.

Magistrate judges have greater flexibility in their schedules than district judges, who have heavy criminal caseloads that take priority over civil trials. Accordingly, the magistrate judges are generally able to schedule prisoner civil rights cases for jury trial much sooner, and they are able to provide firm trial dates. Magistrate judges are experienced trial judges who handle a great number of prisoner civil rights cases.

Your decision to consent to the dispositive jurisdiction of a United States magistrate is entirely voluntary. If you do not consent to a magistrate judge, the case will be randomly assigned to a district judge. The magistrate judge already assigned to this case would continue to decide all pretrial matters and would handle all dispositive motions by report and recommendation.

Please check **ONE** box below to indicate whether you voluntarily consent to proceed with a United States magistrate judge or if you would instead prefer that the case be assigned to a district judge.

☒ I hereby voluntarily consent to the United States magistrate judge conducting all proceedings in this case, including entry of a final judgment and all post-judgment matters.

☐ I request that this case be assigned to a district judge.

8/31/22

Date


Signature of Plaintiff

NOTICE TO PLAINTIFF(S)

The failure of a *pro se* litigant to keep the court apprised of an address change may be considered cause for dismissal.

Anthony McRowan #50318718
Berrien County Jail
919 Port St.
St. Joseph, MI. 49085

LEGAL MAIL



U.S. District Court
399 FEDERAL BUILDING
110 MICHIGAN ST., N.W.
GRAND RAPIDS, MI. 49503